

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
WESTERN SECTION

Earl Donald Baker)
) 19cv30008-MGM
vs)
) June 19, 2020
Smith & Wesson, Corp.)
_____)

Telephone conference Held Before
The Honorable Mark G. Mastroianni
United States District Judge.

APPEARANCES:

On behalf of the plaintiff: Benjamin C. Rudolf, Murphy &
Rudolf, LLP, One Mercantile Street, Suite 740, Worcester,
MA 01608.

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1 THE CLERK: Case this morning via telephone is
2 Civil Matter 19-30008, Baker versus Smith & Wesson, Corp.

3 Counsel, will you please identify yourself for the
4 record starting with the plaintiff please.

5 MR. LEE: John Lee, L-e-e, on behalf of
6 plaintiff.

7 MR. RUDOLF: Ben Rudolf on behalf of the
8 plaintiff.

9 MS. BREEN: Lisa Breen on behalf of the
10 plaintiff.

11 MS. BERTRAM: Connie Bertram on behalf of Smith
12 & Wesson.

13 MR. POINDEXTER: Jeff Poindexter on behalf of
14 Smith & Wesson.

15 MS. MAKKIYA: Ann Makkiya is on as well. I'm
16 in-house with Smith & Wesson.

17 THE COURT: Very good.

18 Anyone else? We have everyone. Thank you all for
19 calling in.

20 Christina, you did say our court steno Alice is on
21 the line?

22 THE CLERK: Correct.

23 THE COURT: Okay. All right.

24 I have -- we're carrying today as a status. I have
25 plaintiff's motion for entry and order on Zoom depositions

1 and for sanctions. So I have read and I'm reviewing right
2 now again that motion.

3 Is this for depositions in the plural or one
4 deposition that you want to take?

5 MR. LEE: These are all depositions I believe.
6 As of right now, we've identified either nine or ten so
7 far and we've scheduled one, two, three, four, five, six.
8 So plaintiff and plaintiff's wife and then we scheduled
9 Mr. Cicero, Mr. Suraci, Ms. Salvador, and Mr. Smith. I
10 am waiting for a date. I gave them a bunch of dates.
11 We're waiting for a date for Ms. Bruce.

12 THE COURT: All right. So you're looking to set
13 up rules and protocols that would apply both ways to all
14 Zoom depositions, Zoom or whatever video conference?

15 MR. LEE: Sure. Correct, Your Honor. I believe
16 I can cut to the chase on this thing. I believe the
17 defendants reading of our proposal is misstated or
18 misunderstanding. I'm not -- it's no different than if it
19 was a physical deposition. If they want to take a break
20 because there's no question pending and the examination or
21 the questioning is paused and they want to take a break,
22 sure. That would happen at a physical deposition.

23 They're reading the deposition -- my protocol as if
24 unless all attorneys agree, the witness may not go to the
25 washroom. That's just not true.

1 Obviously nothing should happen while there's a
2 question pending. And the other really real risk here is
3 any witness -- whether it's defendant's witness, mutual
4 witness, plaintiff's witness -- be coached electronically,
5 text or emails because the only thing that the camera can
6 see is the witness which is why there's basically a
7 proctor involved.

8 The proctor most likely it will be a paralegal but
9 even at a real deposition, a physical deposition, if I
10 were to bring in a law student who sits next to me and
11 manages documents for me and takes notes for me, every
12 party has a right to do that.

13 I'm just saying to make sure that the process and the
14 integrity of the process is protected, either party is
15 allowed to have a proctor physically present where the
16 witness is so that there aren't improper communications to
17 the witness. That's all.

18 THE COURT: Who appoints the proctor? Does the
19 proctor have to be agreed upon between the parties?

20 MR. LEE: No. It would be Ms. Bertram or Mr.
21 Poindexter to send one of their employees, one of their
22 parallels. Mr. Rudolf and I would be able to do the same
23 thing.

24 For example, I would -- a remote deposition Mr.
25 Rudolf would be in Western Massachusetts; Mr. Poindexter

1 would be. Ms. Bertram could be wherever she wants to be.
2 I would most likely be in Chicago but wherever the witness
3 is, either party is entitled to have a proctor observe the
4 witness because the camera cannot observe everything. And
5 that's --

6 THE COURT: When you say entitled, are you
7 citing to some authority? I haven't heard of a practice
8 or know of the practice but that certainly doesn't mean it
9 doesn't exist.

10 MR. LEE: Well, I'm going mostly by what we do
11 here in Illinois. These protocol and these rules are
12 being used in just about every case in Illinois. A party
13 has a right to have an attorney or an attorney's employees
14 or paralegals present at a deposition. Even a party could
15 be present at a deposition. They're entitled to be.

16 So all I'm saying is we just want to have each party
17 -- both parties have the right to have somebody who's
18 accountable to the court and they will be accountable to
19 the court because they are either employees or agents or
20 independent contractors to the lawyers who are accountable
21 to the court, and they would -- they wouldn't go there to
22 object or inject themselves into the process. They're
23 merely there to observe, a proctor.

24 That's a very common -- it's a protocol that's being
25 done in every court at least around here anyway. So it

1 seems to me it's uncontroversial and even from the emails
2 and the responses that the defendant has wrote, they don't
3 seem to disagree with it. They simply think that unless I
4 -- unless all the attorneys agree that a witness may not
5 take a break to go to the washroom or go have a
6 conversation with the lawyer, that's not true. That would
7 happen even in a physical deposition.

8 THE COURT: All right. Well, let me hear Ms.
9 Bertram's position. Now, of course, part of the reasons
10 why video depositions are taking place is to avoid the
11 necessity of too many people being in close proximity to
12 each other. This just puts another person in a room.

13 MR. LEE: Correct, and they would follow social
14 distancing and face masks and all that.

15 THE COURT: All right. Attorney Bertram, is
16 there an objection to this or an objection to working this
17 out? And in your experience is this common protocol?

18 MS. BERTRAM: I have never heard of a proctor,
19 Your Honor. My concern with a proctor now hearing what
20 he's proposing, is, you know, what's the value?

21 So we have a process that's been in place for decades
22 for taking depositions so that we have a record and that
23 record is binding on the witness and on the parties and it
24 can be used in court in certain circumstances.

25 And so here we're going to have a court reporter

1 taking down a transcript; we're going to have a
2 videographer taking video, and let's say that the proctor
3 claims that the witness looked over at me and I supposedly
4 moved my mouth no and then the witness said no. So I
5 would never ever do that, of course, but let's say the
6 proctor claims that happened. You know, I mean, what's
7 the proctor to do? I guess they would make a record. Are
8 they going to state on the record that I just saw Ms.
9 Bertram's lips move?

10 THE COURT: I mean aren't we just calling
11 whoever -- I mean everyone brings either an assistant or a
12 co-counsel or someone with them usually to a deposition
13 and so now we're just calling them a proctor, but what's
14 really the effective difference between, as was said, a
15 law clerk or a paralegal or someone going to the
16 deposition?

17 MS. BERTRAM: I just don't -- if you're an
18 attorney, you're entitled to take objections for the
19 record and if you see any misconduct occurring during the
20 course of the deposition, you have an obligation to make a
21 record; otherwise, you waive that objection.

22 So if I saw Mr. Lee passing notes -- which I'm sure
23 he would never do -- to a witness to give them input on
24 what they should say, I would interject on the record and
25 say I just observed Mr. Lee hand a note to the witness.

1 I'd like to know what that note said. And I would
2 probably put the note up and have the video camera show an
3 image of it and I probably would make a photocopy of it,
4 but I have that right to speak on the record as counsel
5 and I can preserve my objections.

6 So here we just have someone taking notes, writing
7 down objections that they're thinking they're seeing which
8 would not be preserved for the record, would be under the
9 rules waived, and it's just going to lead to all kinds of
10 disputes.

11 I've never had this issue come up before. I've taken
12 many videotaped depositions; I've taken many remote
13 depositions. We've been working on a lot of stipulations
14 post COVID-19 or during COVID-19 to address these issues.
15 This has never been a problem before. We are officers of
16 the court and we're not going to engage in any misconduct
17 during the course of the deposition and we have to trust
18 that process. And so --

19 THE COURT: When these video depositions are
20 done, how many camera angles are generally used?

21 MR. LEE: Just one, Your Honor.

22 THE COURT: One camera on the person being
23 deposed, but depending on what court stenographer service
24 you're using or video deposition service you're using, in
25 any of the experience of the attorneys on the phone now

1 are there ever multiple cameras used?

2 MR. LEE: No.

3 THE COURT: In other words, two angles of a
4 witness? A front view --

5 MR. LEE: No.

6 THE COURT: -- and side view so you capture more
7 of the room?

8 MR. LEE: No. Even in a physical videography
9 deposition, there's only one camera usually right on the
10 witness. Not always right on the witness.

11 To address Ms. Bertram's grief, they don't have an
12 issue with us having a representative at a deposition
13 because we're entitled to have one. Everybody is.

14 If she is concerned about the making of a record,
15 however that's done, for example, a paralegal could text
16 or email immediately to Mr. Rudolf or me and we make an
17 objection that's preserved for the record.

18 I have been involved in particularly ugly cases where
19 people who are in the conference room during the
20 deposition or even the court reporter have been called as
21 witnesses on various accusations and defenses with respect
22 to improper behavior.

23 The problem here is the witness is in a room and the
24 videographer and the court reporter are not in the room.
25 They're remote. They're somewhere else. They could be

1 but they generally are not. That's the whole point of the
2 remote deposition.

3 So if Ms. Bertram -- whether it's me who wants to be
4 physically in the room with Mr. Baker or Ms. Bertram wants
5 to be physically in the room with Mr. Cicero, they are
6 entitled to it. They can be there. By the same token,
7 the other party is entitled to have a representative there
8 to watch them.

9 THE COURT: So how is this deposition going to
10 work? If you're talking about people being in the room,
11 we have a witness in a room with the videographer. Who
12 else is in the room?

13 MR. LEE: Not a videographer, a laptop usually
14 or a desktop with a camera basically --

15 THE COURT: Recording.

16 MR. LEE: -- they hit a link. The court
17 reporter sends a link to the witness and that activates
18 the Zoom and the court reporter and the videographer are
19 not physically in the room with the witness. So no one
20 is. You could have -- if neither side sends a
21 representative, you could have a remote deposition with no
22 one in the room with the witness.

23 THE COURT: Are you saying these witnesses are
24 going to be engaging in the Zoom -- we're using the word
25 Zoom -- the Zoom or whatever service you're using from

1 some location or just from their home?

2 MR. LEE: It could be any location so long as
3 there's a good internet connection and typically it's a
4 laptop with a camera right on it, and that's what all
5 these -- whether it's Zoom or Skype that's what all these
6 depositions are happening these dates.

7 I'm just aghast at Ms. Bertram's attempt to say that
8 we shouldn't have this because she agrees that the
9 response be -- that we are entitled to have a
10 representative where the witness is.

11 THE COURT: Tell me in your experience how this
12 is working out with Zoom depositions. Someone is being
13 deposed over this Zoom conference. They're doing it from
14 their home; sitting at their kitchen table. You're
15 suggesting someone is allowed to be over at that person's
16 house at their kitchen table with them watching them be
17 involved in the video deposition?

18 MR. LEE: And if that person is uncomfortable
19 having anybody visit their home, they could have it at a
20 conference room. They could have it at a -- typically
21 it's a conference room or a lawyer's conference room or a
22 company conference room. They just need to have an
23 internet connection.

24 There's been zero problems with these remote
25 depositions save one issue and that's if they have not a

1 good enough internet connection, a bandwidth issue. And
2 there's some typically audio issues if you have more than
3 one person, let's say three people in the same room using
4 the same WiFi all connected to Zoom, there's an audio
5 issue, kind of echo and a feedback issue. That's an audio
6 technical issue. But other than that, it's just been
7 never an issue and it's never been questioned whether a
8 person could be a representative of a party could be
9 physically where the witness is to observe the witness.

10 MS. BERTRAM: Your Honor, could I respond to
11 some of the issues that have been raised?

12 THE COURT: Sure. Go ahead.

13 MS. BERTRAM: We don't have an objection to a
14 paralegal or someone who's currently employed by Mr. Lee's
15 firm attending the deposition or his local counsel Mr.
16 Rudolf. So, you know, we proposed that and it sounds like
17 the parties are in accord on that.

18 Now we have may a different issue as, for instance,
19 the witness him or herself because of COVID-19 does not
20 want that person in their home but we proposed an
21 exception for that. And so -- but I want to address --

22 MR. LEE: That can be worked out. That could be
23 -- these days actually people -- the big court reporting
24 companies if they don't have a laptop, let's say a witness
25 doesn't have a laptop, the court reporting company will

1 provide it.

2 MS. BERTRAM: That wasn't my point.

3 MR. LEE: I'm sorry. So I was thinking like,
4 let's say for example everybody --

5 THE COURT: Hold on one second. Please let's
6 let Attorney Bertram finish.

7 MR. LEE: Sure.

8 MR. BERTRAM: So my point was not -- I was
9 talking about a witness because of COVID-19 feeling
10 uncomfortable having this representative present in their
11 home, they may be at a high-risk situation. My concerns
12 were only, number one, the randomness because in the
13 communications back and forth when I asked who this
14 representative would be, he said it could be anyone even a
15 witness.

16 And we're like, well, it really needs to be somebody
17 affiliated with their firm like a paralegal or counsel,
18 not just someone random off the street because we are
19 asking this person to go to someone's personal home and,
20 you know, the concerns about COVID-19. We didn't want a
21 situation where, for instance, he was hiring somebody
22 through a temp agency to go and monitor the deposition.

23 MR. LEE: May I respond?

24 MS. BERTRAM: I have another point that I wanted
25 to make. So it's just the randomness and then who that

1 would be and so if we can limit this to someone affiliated
2 with the firm, we're comfortable with that. We have
3 presented that to Mr. Lee prior to him filing the
4 motion.

5 THE COURT: All right. So if the person
6 observing for either side -- this will be reciprocal --
7 has a legal affiliation with the lawyer or lawyers
8 representing whichever party, by legal affiliation I mean,
9 I mean, a close enough affiliation that the ethical
10 obligations of the attorney or the law firm representing
11 either side is necessarily involved with that person's
12 presence.

13 MR. LEE: Sure. May I respond to what Ms.
14 Bertram just said? I hate to get personal.

15 THE COURT: We have to do this quickly. I have
16 a ten o'clock and I want to make sure I hear you on the
17 other issues.

18 MR. LEE: Either Ms. Bertram did not read the
19 emails between me and her associate Jack Blum or she's
20 absolutely making things up. I did not say anyone. I
21 said people who are employed by or agents of the lawyers
22 who are accountable to the court. That's what I said in
23 an email written with a CC to Ms. Bertram.

24 THE COURT: Okay.

25 MR. LEE: I don't know what to say.

1 THE COURT: So that's enough --

2 MR. LEE: Okay.

3 THE COURT: -- on this issue.

4 Let me just ask one more follow-up question after I
5 say that's enough.

6 What if there is a witness, what's your plan if a
7 witness -- the witness themselves says I'm just
8 uncomfortable having another person near me in my home or
9 near me at some other location?

10 MR. LEE: Because of COVID, sure. I've had
11 cases where basically depositions have been put off
12 because of that issue. We've also had agreements among
13 the lawyers, okay, nobody will be allowed to be in the
14 room with the witness. The witness is by himself or
15 herself with the laptop, but there's a stipulation and an
16 instruction read to the witness that no one is to
17 communicate with that person during the questioning by
18 electronic means. And if the parties are comfortable with
19 that, the lawyers are comfortable with that, we can do
20 that. It's just not an issue to be worked out.

21 I know we're short on time, Your Honor. Second, the
22 second our motion for sanctions I can really cut to the
23 chase on that. Their response --

24 MS. BERTRAM: Your Honor, I have not -- I want
25 to focus on the stipulation since it's important and what

1 Mr. Lee has not raised are additional restrictions. He
2 just mentioned one of them and I thought they might be off
3 the table but he still seems to be suggesting that we
4 should have this restriction.

5 THE COURT: Which restriction?

6 MS. BERTRAM: So he had additional restrictions
7 that he had added to the stipulation. Number one is that
8 the witness may not communicate with anyone during the
9 examination other than the examining attorney or court
10 reporter while a question is pending. That's fine with us
11 but we have to carve out communications to determine
12 whether a privilege is implicated.

13 Number two is he or she may not consult with any
14 person, firm, or entity during examination -- that's the
15 same one. I'm sorry.

16 He or she may not consult with any written, printed,
17 or electronic information during the examination other
18 than information provided by the examining attorney. We
19 felt that that restriction would prevent the witness from
20 consulting notes or materials during a break, during
21 lunch. They can and Mr. Lee can certainly ask about it,
22 but we shouldn't be prohibiting witnesses from looking at
23 materials that they think would be helpful to their
24 testimony.

25 MR. LEE: I'll work out the language.

1 THE COURT: Once you take a break and then you
2 come back, you start with a follow-up question about
3 during the break did you talk with, consult anyone, do
4 anything to refresh your memory during the break?

5 MS. BERTRAM: Right.

6 THE COURT: Right.

7 MS. BERTRAM: He wants to preclude them from
8 doing it in the first place.

9 MR. LEE: I do not --

10 COURT REPORTER: Excuse me, one at a time
11 please.

12 MS. BERTRAM: The other restriction is that they
13 can't talk to anyone during the course of the deposition
14 and he just mentioned that one, and that would prevent the
15 witness from communicating with me or with anybody else
16 during the deposition.

17 So all of this is too restrictive. A party is
18 entitled to consult with counsel during breaks. It may or
19 may not be privileged, and I think we just -- and to
20 respond to his point about the COVID concern, there may be
21 a situation where a witness who has known me for a period
22 or has known another attorney for a period of time. I
23 provide information about what I have done during
24 quarantine and they feel comfortable with me being present
25 but maybe not another person. I'm not saying that they

1 would do that inappropriately, but a couple of the
2 witnesses are over the age of 65 or otherwise high risk
3 and I don't want to set up rules now that put the
4 witnesses in jeopardy.

5 THE COURT: I think Attorney Yee (sic) is
6 talking about being able to deal with that.

7 How long will it take you, Attorney Bertram, just to
8 file something very briefly regarding -- I think -- I
9 don't know what I'm going to do. I'm not going to tell
10 you right now but I think I'm leaning towards allowing
11 some modified version of what Attorney Lee is asking for.
12 But how long will it take for you to give me some
13 objections and alternative proposals to the stipulation
14 that was proposed?

15 MS. BERTRAM: I would think Tuesday or wednesday
16 works. Our office is closed today for Juneteenth and so
17 we're closed today, and I'm traveling so I'll be back in
18 the office on Monday or back at work on Monday and can get
19 something to you Tuesday.

20 We hadn't had -- I mean, I want to respond to --
21 because I know this is time sensitive -- at the beginning
22 of this Mr. Lee said that we have five or six depositions
23 that have been scheduled. That is not the case. The
24 request for stipulation and then filing of the motion we
25 feel without proper conferral kind of put the whole

1 schedule in a state disarray, and particularly we have not
2 agreed to the dates for Mr. and Ms. Baker's depositions.
3 He proposed that they be conducted on the 24th and the
4 30th of July which is at the end of the deposition period.

5 We need to take his deposition early in the order so
6 that we can determine whether additional third-party
7 witnesses may be necessary. We've gotten into a quagmire
8 in scheduling because Mr. Lee insists that Mr. Cicero has
9 to go first and that Ms. Bruce and Mr. Suraci go second
10 and third and, you know, everybody's got difficult
11 schedules. There's travel involved.

12 Mr. Cicero is general counsel of a publicly-traded
13 company and we've got the CEO that's also been noticed,
14 and we really need to get these depositions -- I think we
15 first get the order in place and then we get the
16 depositions scheduled up.

17 We were willing to offer Mr. Cicero first just to
18 resolve that dispute but we want to take Mr. Baker next,
19 and then we schedule up the depositions in a way that
20 works for counsel and for the witnesses.

21 MR. LEE: May I respond, Your Honor? First of
22 all, Ms. Bertram is not reading the question -- the words
23 during the questioning in my proposed stipulation but we
24 can work out the language. I'm not saying she can't talk
25 to her people or show documents to witnesses during the

1 break. I'm just saying during the questioning. That's
2 what the stipulation says, but that's literally working
3 out the language in the stipulation or the order. That's
4 that.

5 Obviously nobody wants anybody's health at risk.
6 That's that. Mr. Cicero's deposition is scheduled. It
7 was scheduled. They wanted to reschedule it. It was now
8 rescheduled. It's Wednesday -- it's rescheduled for
9 witness. Ms. Bertram is saying she can't get you the
10 language until Tuesday. Fine, which means that Mr.
11 Cicero's deposition is not going to go on Wednesday. And
12 she says there's CEOs and some are scheduled, blah, blah,
13 blah, blah. I'm perfectly okay with reasonable extensions
14 to make sure all these deps get done under the right
15 rules, but they've got to get done.

16 THE COURT: All right. So let's do this.

17 The first thing, Attorney Lee, I think in the last
18 interaction I mistakenly called you Attorney Yee. I'm
19 sorry.

20 MR. LEE: That's okay.

21 THE COURT: So get me, Attorney Bertram, your
22 proposal by -- if it's Tuesday, Tuesday close of business,
23 and I'm going to be working on this so it's ready to go so
24 I can plug in and consider in a pretty quick way your
25 proposal and I'll have that order back to you by the end

1 of next week so you should plan accordingly.

2 If the parties can't agree the order of the
3 deposition, please notify the court and the court will set
4 the order. That's really not a situation you want because
5 once the court does it, it's just not going to be taken
6 into consideration the convenience of all the people. I'm
7 just going to set an order and that's going to be it.

8 MR. LEE: Okay. That's fine, Your Honor. I
9 know the court is short on time and that's fine.

10 The second issue is all that I would like to do is
11 have it entered and continued because I believe what the
12 response says is we produced these things. That's what we
13 have. What we didn't produce what we don't have and that
14 raises an issue and that raises actually expoliation of
15 evidence issue, but that record is not made enough or
16 complete enough to have the court hear it yet.

17 So all I want my motion for sanctions to be, to be
18 entered and continued so that we can make the record
19 better. The response brief clearly tells me what -- I
20 know what they produced. My concern has to do with what
21 they didn't produce. And if the answer is they didn't
22 produce it because they don't have it, that's the answer
23 and that will raise a different issue. But that issue is
24 sort of premature at this point.

25 THE COURT: So one more time. How are you

1 asking that we handle your motion?

2 MR. LEE: Just to simply enter it and not decide
3 on it until I submit, for example, transcripts of
4 depositions as to what happened to the documents that
5 Smith & Wesson has not produced because it does raise
6 expoliation of evidence issues.

7 So that will have to be -- for example, let's say I
8 ask Ms. Cicero and I ask Mr. Flatley and then I ask Mr.
9 Francis what happened to these fleeing documents and if
10 they say it was there but, you know, maybe -- but
11 obviously there's saying we didn't produce things because
12 we don't have them. Fine. That's fine. A party cannot
13 produce what it does not have. Then the question becomes
14 why does it not have it.

15 MS. BERTRAM: The answer is simple. It's
16 because it was written on the board of dry erase.

17 THE COURT: If, Attorney Lee, you don't want to
18 get into this today, why do I even need to hear it? We
19 can just reschedule this.

20 MR. LEE: Sure.

21 THE COURT: So it's docketed. We can either
22 give this a new date right now or just not rule on it
23 right now and you notify the court if you want this put
24 back on for a hearing.

25 MR. LEE: Sure. The only thing I would

1 recommend for the court is obviously if the court does
2 this thing about the protocol and the stipulation and all
3 that and the deps are going to be rescheduled, I just want
4 -- obviously it's a burden to the court -- but to set
5 regular statuses so that this thing gets pushed and the
6 status -- because at some point deps have to be completed
7 and people can file whatever motions they feel that they
8 can file. Then a trial date has to be set and it's got to
9 go.

10 The only thing personally plaintiff requests is sort
11 of some periodic status hearing so that the court can
12 continue to monitor the case.

13 THE COURT: All right.

14 Attorney Bertram, did you want to say anything about
15 just putting this -- no ruling on this motion for
16 sanctions part of the pleading for today and if we need to
17 have a hearing on it, the court will be notified and set
18 it for a hearing.

19 MS. BERTRAM: Your Honor, we filed our motion I
20 think a day or two of receiving the motion that Mr. Lee
21 filed. We would like to -- if it's going to be set for a
22 hearing, we would like the opportunity to draft an
23 opposition to that.

24 THE COURT: No doubt, of course.

25 MS. BERTRAM: Right.

1 THE COURT: But there's no hearing today. If
2 this is going to be put -- if something can't -- is not
3 worked out to the satisfaction of each side, this will be
4 set for a hearing and I'll say right now set with a
5 hearing with enough time for you to provide a written
6 response, generally a two-week notice.

7 MS. BERTRAM: Right. Thank you.

8 THE COURT: All right.

9 Okay. To my clerk, Ms. Rivera, let's set this for a
10 30-day status just to check in. I'm anticipating not much
11 is going to happen at that status, but we'll just check
12 in. Frankly we'll do 30-day status check-ins for a month
13 or so and then start moving out from there until we have a
14 schedule.

15 THE CLERK: Monday, July 20th at 9:30 a.m.

16 MR. LEE: That's fine with plaintiff's
17 counsel.

18 THE COURT: All right.

19 MS. BERTRAM: That works for me as well, Connie
20 Bertram.

21 THE COURT: Very good.

22 MR. LEE: Thank you very much.

23 MS. BERTRAM: Thank you, Your Honor. We really
24 appreciate it.

25 THE COURT: You will have a ruling on the

1 stipulation by the end of the week, and please notify the
2 court if you're having any trouble scheduling.

3 MR. LEE: Okay. Thank you.

4 THE COURT: Okay.

5 MS. BERTRAM: Thank you.

6 **(Hearing concluded at 10:03.)**

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17 I certify that the foregoing is a correct
18 transcript of the record of proceedings in the
19 above-entitled matter to the best of my skill and ability.
20

21
22
23 /s/ Alice Moran
24 Alice Moran, RMR, RPR
Federal Official Court Reporter

July 19, 2020